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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,763	01/26/2004	David A. Goodmanson	8893-000003	1920

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EXAMINER

TRAN, LIEN T

ART UNIT PAPER NUMBER

1761

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/765,763	GOODMANSON, DAVID A.	
	Examiner	Art Unit	
	Lien T Tran	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-31, 33-37, 40, 41-51 is/are allowed.
- 6) ☒ Claim(s) 23, 24, 27, 32, 38, 39, 44 and 47 is/are rejected.
- 7) ☒ Claim(s) 25, 26, 28 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The 112 first paragraph rejection of claims 27, 32, 38-39,44 and 47 is maintained for the same reason set forth in the previous office action.

In the response filed Oct. 12, 2004, applicant points to paragraph 23 of the specification for support for the subject matter in these claims. However, paragraph 23 does not disclose the limitations in these claims. For example, adding both sugar and dextrose together, the highest amount possible is 84. Paragraph 23 discloses 58-62% sugar, 18-22% dextrose or most preferably, 59-61% sugar , 19-21% dextrose; none of these ranges give the range of 85-90% or about 90 parts sugar as claimed. Also, paragraph 23 does not give the amounts of wheat gluten and enzyme as claimed. Paragraph 23 does not disclose the limitation of claim 38.

Claims 23, 24 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moline in view of Silva for the same reason set forth in the previous office action.

In the response filed Oct. 12, 2004, applicant argues Moline does not disclose the re-use of the dough scraps in the mixed dough at a level of 30% and does not teach the formation of a reprocessing batter which includes the rework, water and a catalyst. This argument is not persuasive. Moline teaches adding all the scraps back into the dough. Thus, however much scraps are generated, such amount is added back to the dough. For example, column 8 lines 35-40 discloses when a dough web is divided into dough shells, dough trimming is approximately 30% of the web and the scraps is blended back into the mixed dough. The amount of scraps can vary with the type of dough made. With respect to the reprocessing batter including rework, catalyst and water, none of the claims rejected contains limitation on the composition of the

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reprocessing batter. With respect to the Silva reference, applicant argues Silva does not teach or suggest the use of a catalyst and water in combination with the rework dough. The claims rejected do not contain limitation on the composition of the reprocessed batter. Claim 38 recites a dough comprising flour, rework dough, water, catalyst and yeast. The dough disclosed by Moline contains all these components except for the catalyst. Silva disclose a fermentation aid which is equivalent to the claimed catalyst; it would have been obvious to add the fermentation aid to quicken the fermentation process as taught by Silva. The claims rejected do not recite wheat gluten.

The obviousness double patenting rejection is withdrawn due to the filing of the terminal disclaimer.

Applicant's arguments filed Oct. 12, 2004 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Wed-Fri.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 5, 2005


LIEN TRAN
PRIMARY EXAMINER

Group 1700